

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Consider
Whether Text Messaging Services Are
Subject to Public Purpose Program
Surcharges.

Rulemaking 17-06-023

**DECISION GRANTING INTERVENOR COMPENSATION TO THE UTILITY
REFORM NETWORK FOR SUBSTANTIAL CONTRIBUTION TO
DECISION 19-01-029**

Intervenor: The Utility Reform Network	For contribution to Decision (D.)19-01-029
Claimed: \$60,721.18	Awarded: \$60,721.18
Assigned Commissioner: Martha Guzman Aceves	Assigned ALJ: Regina DeAngelis and Zita Kline

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	The Final Decision (D.19-01-029) exempts intrastate revenue from text messaging services from assessment of surcharges to support the Commission's public purpose programs and Commission user fees. The Commission declined to exercise authority under state law to assess surcharges on classified text messaging services that the FCC recently identified as "information services" during the work on this docket.
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	September 13, 2017	Verified
2. Other specified date for NOI:		
3. Date NOI filed:	August 29, 2017	Verified
4. Was the NOI timely filed?		Yes
Showing of eligible customer status (§ 1802(b) or eligible local government entity status (§§ 1802(d), 1802.4):		
5. Based on ALJ ruling issued in proceeding number:	A.16-08-006/A.15-09-001	Verified
6. Date of ALJ ruling:	November 28, 2016	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):		
9. Based on ALJ ruling issued in proceeding number:	A. 16-08-006	Verified
10. Date of ALJ ruling:	November 28, 2016	Verified
11. Based on another CPUC determination (specify):		
12. Has the Intervenor demonstrated significant financial hardship?		Yes
Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D.19-01-029	Verified
14. Date of issuance of Final Order or Decision:	February 9, 2019	Verified
15. File date of compensation request:	April 9, 2019	Verified
16. Was the request for compensation timely?		Yes

¹ All statutory references are to California Public Utilities Code unless indicated otherwise.

C. Additional Comments on Part I:

#	Intervenor's Comment(s)	CPUC Discussion
B.3.	TURN submitted its NOI between the start of the proceeding and within 30 days of the prehearing conference. Rule 17.1(a)(1)	Noted.
B.3	TURN's itemized estimate of the total compensation in its NOI includes approximately ten hours dedicated to work prior to the adoption of the OIR related to the CTIA Petition 17-02-006 which was closed when the Commission adopted this OIR. (see, OIR at p. 1; Final Decision at p. 7) The OIR served as the Proposed Decision in the Petition docket. As discussed below, time spent addressing issues in the Petition proceeding has a direct and substantial contribution to the development of issues in this proceeding. While Rule 17.1(a)(3) allows for NOIs in Petition proceedings, there was no PHC or Scoping Memo prior to the proposed OIR/Proposed Decision appearing on the Commission's agenda on May 12, 2017. TURN urges the Commission to find the NOI in this proceeding to appropriately include hours for the related Petition.	Noted.

PART II: SUBSTANTIAL CONTRIBUTION**A. Did the Intervenor substantially contribute to the final decision (see § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):**

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. <i>Background</i> In February 2017, CTIA petitioned the Commission for a "rule stating that text	CTIA Petition, February 27, 2017 at p. 1 Joint Consumers Response to Petition, March 29, 2017 at p. 2, 6-8, 17. (Joint	Verified.

<p>messaging services are not subject to Public Purpose Program (PPP) surcharge or user fees.” TURN filed a joint protest with other consumer organizations to oppose CTIA’s Petition and urged the Commission to continue its practice of including revenue from intrastate text messaging revenue in its calculation for collection of surcharges and user fees. The Commission denied CTIA’s request for a new rule and, instead, in response to the Petition and the Joint Consumer Response and its request for a proceeding, opened this Rulemaking to consider whether to exempt text messaging services from PPP surcharges.</p> <p>During the proceeding, TURN, in work with Joint Consumers, demonstrated that, in contrast to claims of CTIA, the classification of text messaging was unsettled and that Commission had clear legal authority to include text messaging revenue in its surcharge calculations and urged the Commission to consider the public policy impacts of any decision to exclude text messaging. Joint Consumers also requested clarification from the carriers and staff regarding current surcharge practices.</p> <p>On November 9, 2018, after multiple rounds of comments and data review produced by staff, the Assigned Commissioner issued a</p>	<p>Response).</p> <p>OIR at p. 4</p> <p>Joint Consumers Opening Comments on OIR, August 18, 2017, at p. 7-8, 11, 17-19.</p> <p>Joint Consumers Opening Brief, May 11, 2018 at p. 2-3; 8-12.</p> <p>Assigned Commissioner Proposed Decision, November 9, 2018 at p. 9-12, 25, 41-42 (“November Proposed Decision”)</p> <p>Final Decision, January 31, 2019, pp. 7-8 (granting OIR as a result of the Petition); 13-17 (legal authority and impact of FCC Ruling).</p>	
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<p>Proposed Decision denying CTIA's request for an exemption and finding that both public policy and Commission jurisdiction supported the assessment of surcharges on text messaging.</p> <p>While the November Proposed Decision was pending, the FCC issued a Ruling classifying text messaging as an information service and not subject to telecommunications regulation. Citing to the FCC's decision, on December 21, 2018 the Assigned Commissioner issued a new Proposed Decision exempting text messaging from paying user fees or submitting the PPP surcharge assessment. Joint Consumers opposed this December Proposed Decision and opposed carrier comments to further amend this new Proposed Decision. The Commission adopted a revised Final Decision in January 2019.</p> <p>TURN brings a unique perspective to this proceeding by representing consumers that rely on PPP programs supported by these surcharges, but also representing the end user customers that pay these surcharges. Starting with its protest of the CTIA Petition, through the adoption of a revised PD, TURN has been an active party to the proceeding in coalition with other consumer groups. TURN encouraged the Commission to recognize the broader policy</p>		
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<p>and legal impacts of the issues raised in this proceeding and worked to ensure that the record included the necessary information, data and analysis to come to an informed conclusion that protected consumer interests. Despite the application of new federal rules on this issue, the Final Decision still acknowledges the strong legal and policy precedent for surcharge collection to support its PPP programs. TURN urges the Commission to find that it made a substantial contribution to this proceeding.</p>		
<p><i>2. Petition and OIR</i></p> <p>The CTIA Petition requested sweeping, two step relief from the Commission. CTIA urged the Commission to find, as a matter of law and based on the Petition alone, that the Commission staff improperly included text messaging revenue for PPP surcharge collection. In the alternative, CTIA requested that the Commission open a rulemaking to make this determination. In its Petition, CTIA claimed that text messaging “is not and has never been subject to PPP surcharges and user fees” and that neither the FCC nor the CPUC has ever “directed” the carriers to submit surcharges on this revenue. CTIA also urged the Commission to find that the Commission cannot collect surcharges on this traffic because text messaging</p>	<p>CTIA Petition at pp. 2-3</p> <p>Joint Response to Petition at pp. 10-11</p> <p>Cox Motion for Party Status, June 1, 2017.</p> <p>Joint Consumers Reply Comments on Proposed Decision/OIR, June 6 2017 at p. 3-5</p> <p>OIR at p. 4-5</p>	<p>Verified.</p>

<p>has not been classified as an information service.</p> <p>TURN filed a Joint Response to the Petition challenging CTIA's claims on several grounds including disputing CTIA's factual assertions that staff has never directed carriers to assess this revenue and requesting further evidence. The Joint Response also opposed CTIA's legal argument that the Commission's surcharge authority is limited to services classified as telecommunications services and the current regulatory classification of text messaging.</p> <p>Finally, Joint Consumers opposed Cox's request to expand the scope of the OIR to include directory listing revenue.</p> <p>In the adopted OIR opening this docket, the Commission rejected CTIA's request that it grant the relief without a further rulemaking and it rejected the request for a Rulemaking to adopt a rule that exempts text messaging revenue based on the unsupported assumption that text messaging is an information service. Instead, the OIR agrees with Joint Consumers that the classification of text messaging is subject to ambiguity and conflicting interpretation. The OIR also rejects Cox's comments requesting expansion and states that the</p>		
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<p>Commission will determine whether text messaging revenue should be subject to surcharge on a prospective basis.</p>		
<p><i>3. Factual Assertions</i></p> <p>In its Petition and comments on the OIR, CTIA made several factual assertions regarding the Commission's practices and procedures for collecting surcharges on text messaging revenue.</p> <p>In their Response to the Petition and again in comments on the OIR, TURN and Joint Consumers urged the companies to provide further data and information and for the Commission to conduct an investigation into CTIA's factual claims. In addition, Joint Consumers urged the Commission to determine the impact on state public purpose funds from a decision in this docket to grant CTIA's requested relief and exempt text messaging. Joint Consumers also filed a Motion requesting that the Assigned Commission suspend the schedule to allow the carriers to provide more data into the record to address these factual claims.</p> <p>Joint Consumers attempted to better understand the impact on PPPs if an exemption was granted and to learn the practices, procedure and</p>	<p>Petition at p. 1-3; 16-17, 19.</p> <p>Joint Consumers Response at p. 2-8; 17-18</p> <p>OIR at p. 6</p> <p>Joint Consumers Opening Comments on OIR, August 18, 2017 at p. 19-21</p> <p>CTIA Reply Comments on OIR, August 28, 2017 at p. 17-21</p> <p>Joint Consumers Reply Comments on OIR, August 28, 2017 at p. 2-3, 8-10</p> <p>Prehearing Conference September 13, 2017 Transcript at p. 24-26.</p> <p>Joint Ruling of ACR and ALJ Directing Input (Staff Report), February 21, 2018, Attachment 1.</p> <p>Motion to Suspend the Schedule for Additional Data from Carriers, March 29, 2018.</p> <p>Joint Consumers Reply Comments on Joint Ruling, April 6, 2018 at p. 9-10</p> <p>ALJ Ruling Denying Joint Consumers' Request to Suspend the Schedule and Requesting Comments on Public Purpose Program Financial Data, April 20, 2018.</p> <p>November Assigned Commissioner Proposed Decision, p. 21, 25-40.</p> <p>Final Decision at p. 4-5, 15-16.</p>	<p>Verified.</p>

<p>history of surcharge collection on text messaging through informal discussions with CTIA and through a Public Records Act request of the Commission staff and discussions with staff. After discussions, TURN agreed to withdraw the Public Records Act Request and to accept data as part of the proceeding.</p> <p>In the OIR, the Commission agreed that the burden was on CTIA and member companies to support their factual assertions in accordance with the Commission's rules. During the PHC, the ALJ directed CTIA to produce data from its member companies or suggested that those companies become parties to the proceeding so that they can be subject to the obligations of the Commission's Rules. The CTIA member companies became parties to the proceeding.</p> <p>During the proceeding, the Commission rejected Joint Consumers' Motion to require carriers to produce data, but the ALJ issued a Staff Report explaining its process for surcharge collection and quantifying the reporting and assessment of text messaging revenues. These documents, and the subsequent comments by CTIA and Joint Consumers, produced in part at the request of TURN and Joint Consumers, strengthened the record and clarified that the</p>		
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<p>current Commission practices were different from the earlier descriptions by CTIA, and that the failure to assess text messaging revenue would have an impact on PPP revenue.</p>		
<p><i>4. Classification Clarification and Jurisdiction</i></p> <p>CTIA repeatedly claimed that text messaging was classified as an information service and, as a result, not subject to surcharges at either the state or federal level. CTIA also argued that federal law preempted the Commission from assessing text messaging revenue because of the classification of the service under federal rules.</p> <p>TURN, with Joint Consumers, provided ample analysis and legal argument that text messaging had not yet been classified as an information service by the FCC and that the Commission has authority and jurisdiction to collect surcharges on text messaging even if the services are not classified as telecommunications services.</p> <p>In November, the Assigned Commissioner issued a Proposed Decision stating that the Commission has authority under both federal and state law to assess surcharges on text messaging as an unclassified service and</p>	<p>CTIA Petition at p. 4, 16, 21</p> <p>Joint Consumers Response at p. 10-11, 16</p> <p>OIR at p. 4-5</p> <p>CTIA Opening Comments on OIR, August 18, 2017, p. 5-16.</p> <p>Joint Consumers Opening Comments on OIR, August 18, 2017, p. 6-14</p> <p>Joint Consumers Reply Comments on OIR, August 28, 2017 at p. 2-5.</p> <p>Joint Consumers Reply Comments on Joint Ruling, April 6, 2018 at p. 6-8</p> <p>Joint Consumers Reply Brief, June 5, 2018 at p. 2-5, 9-14</p> <p>November Proposed Decision at p. 21-32.</p> <p>Final Decision at p. 11-17</p>	<p>Verified.</p>

<p>finding that it should continue to do so to support PPP programs.</p> <p>In December, the FCC issued a Ruling declaring text messaging an information service and not subject to federal surcharge. The Assigned Commissioner re-issued its Proposed Decision declining to assess surcharges on text messaging while still acknowledging state authority to do so.</p>		
<p><i>5. Clarification and Agreement that Assessment was an Existing Practice</i></p> <p>As discussed above, CTIA initially made the claim with the Commission that carriers were not reporting text messaging revenue and that to do so here would constitute a “new” endeavor that required different procedural rules and more detailed analysis.</p> <p>Joint Consumers provided legal analysis of Commission precedent, federal law, and analysis of staff input and data, to demonstrate the Commission’s intent and purpose to collect surcharges on text messaging. Joint Consumers disputed the companies’ characterization of the current rules as vague or unclear on this point. Joint Consumers urged the Commission to “continue” with its practice to collect these surcharges to support universal service and its PPP efforts.</p>	<p>CTIA Opening Comments on OIR, p. 3, 14.</p> <p>Joint Consumers Reply Comments on OIR, p. 2-4, 10-11</p> <p>Joint Ruling, February 21, 2018.</p> <p>Joint Consumer Comments on Joint Ruling, March 23, 2018 at p. 3-6</p> <p>Joint Consumer Motion to Suspend the Schedule, March 29, 2018.</p> <p>Joint Consumers Reply Comments on Joint Ruling, April 6, 2018 at p. 8-9</p> <p>November Proposed Decision at p. 21-40.</p> <p>Final Decision at p. 5-7</p>	<p>Verified.</p>

<p>The Assigned Commissioner's November Proposed Decision agreed with Joint Consumers that the collection of surcharges on text messaging was not a new practice. Indeed the November Proposed Decision suggested investigation into whether the carrier parties should be held responsible for outstanding unpaid surcharge remittances.</p> <p>Even in the Final Decision, which found that the very recent FCC Ruling prevented the Commission from collecting surcharges, the Commission continued to acknowledge its authority and policy support for surcharge collection as discussed by TURN and Joint Consumers.</p>		
<p><i>6. Universal Service Policies Support Surcharge Collection</i></p> <p>CTIA rested its case for relief, in part, on the argument that collection of surcharge revenue on text messaging services was discriminatory and unnecessary to support the Commission's public purpose program. CTIA and CCTA both argued that the Commission's programs were fully funded without text messaging surcharge revenue and to "saddle" text messaging customers with surcharge obligations was discriminatory and unfair.</p> <p>TURN strongly disagreed with the carriers' assertions and</p>	<p>Joint Consumers Opening Comments on OIR, August 18, 2017 at p. 11-13</p> <p>Joint Consumers Reply Comments on OIR, August 28, 2017 p. 7-8</p> <p>Joint Ruling, February 21, 2018</p> <p>Joint Consumers Opening Comments on Joint Ruling, April 6, 2018, at p. 3.</p> <p>Joint Consumers Opening Brief, May 11, 2018 at p. 2, 10-14.</p> <p>Joint Consumers Rely Brief, June 5, 2018 at p. 5-9</p> <p>November Proposed Decision at p. 9-12</p> <p>Final Decision at p. 3-7</p>	<p>Verified.</p>

<p>urged the Commission to consider the fate of its PPP programs if the surcharge revenue was limited to collection on an ever-shrinking source of voice communications revenue. Moreover, TURN pointed out that the Commission has previously found that all consumers benefitted from a connected community that rely on the PPP programs and, therefore, these programs should be funded from the “widest possible base” and that the Commission’s intent was always to include text messaging revenue.</p> <p>The Final Decision agrees that its universal service policies support collection of surcharges from the widest possible base. The November Assigned Commission’s Proposed Decision agreed that the funds should not be limited to collection solely from voice services. While the Final Decision exempts text messaging, it continues to acknowledge its precedent and policies for text messaging surcharge collection and it fails to cite to any policy rationale for its decision to exempt text messaging instead relying solely on the FCC’s decision to classify text messaging as an information service.</p>		
<p><i>7. Scope of the Proceeding</i></p> <p>Cox and CCTA urged the Commission to expand the</p>	<p>Cox Motion for Party Status, June 1, 2017 at p. 2.</p> <p>Joint Consumers’ Response to Cox</p>	<p>Verified.</p>

<p>scope of this docket beyond the appropriate assessment of surcharges on text messaging. Cox and CCTA repeatedly requested that the Commission include similar determinations regarding revenue from voice mail and directory listings. CTIA did not oppose the cable companies' attempt to broaden the scope of this OIR.</p> <p>TURN and the Joint Consumers opposed the expansion of this docket at every opportunity. Even as late as briefing of the issues, CCTA attempted to expand the scope to include both voice mail and directory listing revenue. Joint Consumers filed a Motion to Strike the portions of CCTA's brief that went beyond the scope of text messaging service. TURN and Joint Consumers urged the Commission to only analyze and investigate the Commission's authority, precedent and history with surcharge collection on text messaging revenue.</p> <p>In the OIR the Commission rejected the Cox request to expand the scope. Despite continued attempts to expand the scope by CCTA, the Commission did not amend the Scoping Memo and also granted the Joint Consumers' Motion to Strike and continued to agree with TURN and Joint Consumers that expanding the scope would be procedurally improper.</p>	<p>Motion, June 6, 2017, at p. 1-3 OIR at p. 12</p> <p>CCTA Opening Comments on OIR, August 18, 17 at p. 3-4, 7-8</p> <p>Joint Consumers Reply Comments on OIR, August 28, 2017 at p. 11-12</p> <p>CCTA Comments on Joint ACR/ALJ Ruling, March 23, 2018 at p. 3, 6-9.</p> <p>Joint Consumers Reply Comments on Joint ACR/ALJ Ruling, April 6, 2018 at p. 5.</p> <p>CCTA Opening Brief, May 11, 2018 at p. 1-2, 7, 14-15</p> <p>Joint Consumer Motion to Strike, May 17, 2018</p> <p>ALJ Ruling Granting Joint Consumer Motion to Strike, May 25, 2018</p>	
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<p><i>7. Revisions to the Proposed Decision</i></p> <p>In the Final Decision, the Commission included context and analysis of its previous practices and legal authority to assess surcharges on text messaging (a disputed fact and legal contention from CTIA). In Opening Comments on the December Proposed Decision TURN and Joint Consumers, supported the analysis of the Commission that clarifies current and prior practices and legal authority. CCTA argued that such discussion is “unnecessary and unreasonable” and urged the Commission to delete it from the Final Decision. CTIA also urged the Commission to delete all references to the Commission’s statutory authority to collect surcharges on text messaging.</p> <p>The Final Decision notes that it is denying both CCTA’s and CTIA’s request to delete the analysis and context and agrees with Joint Consumers that the discussion “is consistent with the scope of issues as stated in the scoping memo” and that the FCC’s Ruling is currently under appeal and that the Findings of Fact represent “past Commission practices” and are “supported by sufficient evidentiary record evidence.”</p>	<p>December Proposed Decision at p. 3-7, 11-18.</p> <p>CTIA Opening Comments on the Proposed Decision, January 10, 2019 at p. 3</p> <p>CCTA Opening Comments on Proposed Decision, January 10, 2019 at p. 3.</p> <p>Joint Consumers Opening Comments on Proposed Decision, January 10, 2019 at p. 3</p> <p>Joint Consumers Reply Comments on Proposed Decision, January 15, 2019 at p. 1-3.</p> <p>Final Decision at p. 11-17; FOF 2-3</p>	<p>Verified.</p>
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor's Assertion	CPUC Discussion
a. Was the Public Advocate's Office of the Public Utilities Commission (Cal Advocates) a party to the proceeding?²	No	Verified.
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified.
c. If so, provide name of other parties: Center for Accessible Technology Greenlining Institute		Verified
d. Intervenor's claim of non-duplication: TURN participated in a Joint Consumer collaboration with Greenlining and Center for Accessible Technology that allowed TURN to maximize its work and substantial contribution to this proceeding and avoid duplication of effort. As TURN's time records show, each filing was a collaborative effort with coordination among the three intervenor groups to ensure there was no significant duplication of effort. The group discussed and assigned different issues to each organization where possible, split up the drafting and research efforts, and assigned one organization to finalize and file the pleading. For example, while Greenlining brought their knowledge of federal precedent to bear, TURN researched state law and Commission surcharge practices and Center for Accessible technology took the lead on Motion drafting, due process issues and policy arguments. This coordination and division of labor allowed the organizations to creatively and effectively address most, if not all, consumer impacting issues and make substantial contributions to the case. TURN submits that its combined efforts with these consumer groups resulted in a net "savings" of resources for the three organizations had each organization tried to tackle the same issues alone. Moreover, this coordination, more than likely resulted in expenditure of fewer resources than those brought to the case by the carrier representatives actively participating in the docket. Indeed, the wireless carriers worked in a "coalition" model themselves by working through CTIA, even after the ALJ directed that individual carries must become parties to the proceeding. The Commission should find that TURN's participation was efficiently		Agreed. TURN did not engage in excessive duplication.

² The Office of Ratepayer Advocates was renamed the Public Advocate's Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

coordinated with the other intervenors wherever possible, so as to avoid undue duplication and to ensure any duplication served to supplement, complement or coordinate substantial contribution efforts.	
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PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

	CPUC Discussion
<p>a. Intervenor’s claim of cost reasonableness: TURN urges the Commission to find that its request for compensation of \$60,721.18 is reasonable in light of its substantial contribution to the record and the importance of this issue to California consumers.</p> <p>The Commission’s public purpose programs are a vital resource to millions of low income consumers in California. These programs provide discounts on many different types of communications services for the most vulnerable populations and require millions of dollars in funding annually. The only source of financial support for these programs is surcharge assessments by the Commission. In 21017 alone, the Commission collected \$355 million in surcharges from the wireless industry and estimates that text messaging revenue accounted for 10% of the collected surcharges. This proceeding challenged the fundamental authority of the Commission to support its public purpose programs through surcharges.</p> <p>While the CTIA Petition and subsequent OIR focused on the assessed revenue for text messaging services, which in and of itself accounts for millions of dollars of PPP budget, the legal and policy issues in this proceeding would have significant precedential impact on the Commission’s prospective authority to fund its programs. Indeed, the CCTA and Cox efforts to expand the scope of this proceeding to include other services demonstrated the potentially broad impact of this docket on California consumers that could amount to a loss of tens of millions of dollars to these vital programs.</p> <p>Moreover, the requested relief in this docket put voice service customers at risk for significantly increased surcharge amounts on their monthly bills, thus threatening affordability. Although the Final Decision adopted the rationale of the FCC Declaratory Ruling to exempt text messaging revenue, making it difficult to quantify the direct impact to the programs or end user customers., TURN’s work to address legal issues of jurisdiction, universal service policy issues and the work regarding staff implementation of surcharge rules, helped to mitigate the harm for not only eligible PPP participants but also all California ratepayers obligated to pay surcharges.</p> <p>TURN urges the Commission to determine that its request for</p>	Verified.

<p>compensation is reasonable and reflects a substantial contribution to the docket, significant cost savings for voice customers, and support for vulnerable communities in California.</p>	
<p>b. Reasonableness of hours claimed:</p> <p>Ms. Mailloux was the lead advocate for TURN in this proceeding. As the time records indicate, other TURN advocates such as Ashley Salas and Regina Costa supported Ms. Mailloux's efforts through consultation regarding federal work and through analysis and editing.</p> <p>Ms. Mailloux was primarily responsible for researching, analyzing and developing TURN strategy on the complex issues in this case. She drafted pleadings, worked with Commission staff, attended the prehearing conference and conducted talks with the industry. Moreover, she was TURN's sole representative within the Joint Consumer coalition.</p> <p>Ms. Mailloux's time records reflect a small amount of time spent on the original CTIA Petition (P.17-02-006). The OIR clearly notes that the CTIA Petition and the response to the CTIA by TURN and others was a necessary precursor to work on the OIR and subsequent work in this docket. (<i>OIR at p. 1-4</i>) TURN conducted research and analysis for the Petition that supported its advocacy work in this proceeding. Furthermore, because there was less than two months between the filings on the Petition and the OIR in this proceeding, there was no prehearing conference or other procedural triggers for an NOI or compensation request in the Petition Proceeding. The Commission has previously awarded compensation for reasonable time spent prior to the opening of a docket in preparation to participate in the docket and that led to a party's substantial contribution. (Rule 17.4(d) and D.16-04-035 (C.13-12-005 AT&T Rate Complaint) Awarding over 100 hours of time in preparation for the complaint proceeding). TURN urges the Commission to find that the time it spent prior to the opening of this OIR is reasonable and appropriate for compensation.</p> <p>Ms. Mailloux's work on a Public Records Act submitted in August 2017, coded as part of the IMP time entries, was also necessary preliminary work to support the record in this proceeding. The Public Records request, and TURN's subsequent discussions with staff and CTIA representatives regarding the same request for information were all directly related to the issues in this proceeding (the Commission's practice and procedure for surcharge collection and financial analysis of the current assessment practices). During the prehearing conference, the ALJ acknowledged that the carriers must participate in the proceeding to ensure an accurate record regarding surcharge collections. PHC Transcript, September 13, 2017 at p. 24-26. After discussions with Staff, TURN agreed to withdraw the Public Records request on August 29, 2017 and Staff instead submitted a Staff</p>	<p>Verified.</p>

Report on February 21, 2018 and subsequent financial analysis submitted on April 20, 2018.

TURN's work in this proceeding contributed to the record of this proceeding and supported the conclusions in the Assigned Commissioner's Proposed Decision issued in November 2018. However, the Final Decision in the proceeding does not reflect TURN's full substantial contribution in this proceeding because the Final Decision incorporates changes to relevant federal law on the classification of text messaging that was adopted by the FCC after the November Assigned Commissioner's Proposed Decision.³ While, as discussed above, the Final Decision also demonstrates TURN's substantial contribution regarding the relevance of state law and policy treatment of the issues in this proceeding to support Commission jurisdiction more generally, many of the findings from the original November Proposed Decision were withdrawn after the FCC issued its Ruling. TURN urges the Commission to find that its work led to substantial contributions to the record and to the Assigned Commissioner's Proposed Decision and is thus compensable. There is strong precedent for this request. The Commission has awarded compensation for work resulting in a substantial contribution to an ALJ's or Assigned Commissioner's proposed decision even if the Commission does not ultimately adopt that proposed decision.⁴

Reasonableness of Expenses

TURN incurred a limited amount of expenses to support its participation in this proceeding. Small amounts of copying, postage and phone expenses represent reasonable expenditures to provide the Commission with copies of the pleadings and for TURN advocates to allocate phone expenses to specific cases. Ms. Mailloux incurred travel expenses for her trip to San Francisco from TURN's San Diego office to attend the Prehearing Conference in this proceeding. TURN urges the Commission to find that this small amount of travel expenses is reasonable in light of the importance of participation in a Prehearing Conference.

In 2016, TURN established a San Diego office with three staff attorneys working full time in energy and telecommunications Commission proceedings. This office will allow TURN to better represent California

³ Fed. Comm. Comm'n, *Declaratory Ruling*, FCC 18-178, WC Docket No. 08-7 (Dec. 12, 2018).

⁴ See, D.11-05-044 (TURN awarded for substantial contribution to the record as reflected in the ALJ Proposed Decision on SoCalGas Automated Metering Infrastructure even though the Commission adopted the alternate proposed decision that did not incorporate TURN's recommendations; D.13-09-041 (PG&E Oakley Generating Station); D.05-02-027 (A substantial contribution to a final decision may also be supported by contributions to the ALJ's Proposed Decision (PD), even where the Commission's final decision adopts different outcomes)

consumers throughout the state, including Southern California. While the Commission has rejected some of TURN's previous requests for compensation for travel hours for Ms. Mailloux, with its new Southern California presence, TURN urges the Commission to find that its travel is not treated as "routine commuting" because the TURN San Diego attorneys do not routinely commute to San Francisco. But instead, it is treated more akin to the travel claims of the Sierra Club (that has an office in Los Angeles and San Francisco), UCAN, or the National Asian American Coalition and can be properly reimbursed.⁵ In D.19-01-017, the Commission awarded TURN for its travel expenses, albeit a reduced amount of its requested reimbursement based on factual ground unique to that proceeding.

Reasonableness of Hourly Rates

TURN is applying approved rates for its advocates for 2017 and 2018 except for Ms. Costa who does not yet have an approved rate for 2018. TURN requests that Ms. Costa receive the approved 2.3% Cost of Living increase for 2018 (approved in ALJ-353, March 22, 2018) increasing her rate from \$310 to \$315. TURN is also requesting a rate of \$315 for the small amount of work performed by Ms. Costa in 2019. With this request, TURN is not waiving its right to request an increase in Ms. Costa's rate to apply the 2019 COLA for more substantial work. For work performed by Ms. Mailloux in 2019, TURN is including a 2.35% Cost of Living Increase as approved by ALJ-357 (3/28/19) for a rate of \$495.

c. Allocation of hours by issue:

GEN	General Preparation- Work that generally does not vary with the number of issues TURN addresses in the case.
PET	Petition- Work preceding the OIR that was in response to the CTIA Petition and addressing issues that were also in the Scope of the OIR
SCP	Scope – Addressing CCTA's and Cox's request to expand the scope to include Directory Listings and Voicemail
PPP	Public Purpose Program- addressing and analyzing the impact of the requested relief on Commission universal service policy arguments and addressing legal arguments regarding Commission's policies
JURIS	Jurisdiction- Research and analysis to find Commission authority under both federal and state law to collect surcharges on text messaging
IMP	Impact- Work to address company burden and failure to meet that burden to demonstrate impact of the request relief,

Verified.

	Commission past practices, and logistics of exempting text messaging.	
#	Combined Advocacy- Time entries that cover substantive work and that cannot easily be separated by individual issue area. These hours are generally associated with work spent on addressing Rulings and Scoping Memos that call for comments on multiple, interrelated issues for the record. TURN attempts to identify each entry with a specific code, therefore, entries marked with “#” are limited. TURN does not believe allocation of these entries is required, but if the Commission chooses to allocate these entries to specific issues they would roughly break down as: IMP- 30%, JURIS-50%, PPP-30%.	
PD	Proposed Decision- work to address concerns with the Proposed Decision, including both the November and December Proposed Decisions, analysis of the FCC order, lobbying meetings regarding Commission practices.	
TRAVEL	Hours spent traveling to Commission work from San Diego office, less time spent working on substantive matters to avoid duplication of hours	
COMP	Compensation- work on the NOI and this Request for Compensation	

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Christine Mailloux	2017	42.00	\$475	D.18-01-020	\$19,950.00	42.00	\$475	\$19,950.00
Christine Mailloux	2018	59.75	\$485	D.19-01-017	\$28,978.75	59.75	\$485	\$28,978.75
Christine Mailloux	2019	9.50	\$495	D.19-01-017, ALJ-357	\$4,702.50	9.50	\$495	\$4,702.50
Ashley Salas	2017	7.75	\$210	D.19-01-017	\$1,627.50	7.75	\$210	\$1,627.50
Ashley Salas	2018	0.75	\$225	D.19-01-017	\$168.75	0.75	\$225	\$168.75

Regina Costa	2018	1.50	\$315	D.19-01-017 ALJ-352 (adopting 2.3% COLA)	\$472.50	1.50	\$315	\$472.50
Regina Costa	2019	0.25	\$315	D.19-01-017 ALJ-352 (adopting 2.3% COLA)	\$78.75	0.25	\$315	\$78.75
Subtotal: \$55,978						Subtotal: \$55,978.75		
OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Christine Mailloux	2017	6.50	\$238	Half of 2017 Approved Rate	\$1,543.75	6.50	\$237.50	\$1,543.75
Subtotal: \$1,543.75						Subtotal: \$1,543.75		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Christine Mailloux	2017	0.75	\$238	Half of 2017 Approved Rate	\$178.13	0.75	\$237.50	\$178.13
Christine Mailloux	2019	10.75	\$247	Half of 2017 Approved Rate	\$2,660.63	10.75	\$247.50	\$2,660.63
Ashley Salas	2017	1.00	\$105	Half of 2017 Approved Rate	\$105.00	1.00	\$105	\$105.00
Subtotal: \$2,943.75						Subtotal: \$2,943.75		
COSTS								
#	Item	Detail			Amount	Amount		
1.	Travel	Expenses for Attorney Travel			\$209.96	\$209.96		
2.	Copies	Copying for briefs and other pleadings.			\$17.20	\$17.20		

3.	Phone	Phone bill for calls necessary regarding R.17-06-023.	\$8.45	\$8.45
4.	Postage	Postage for pleadings mailed to the CPUC	\$19.32	\$19.32
Subtotal: \$254.93				Subtotal: \$254.93
TOTAL REQUEST: \$60,721.18				TOTAL AWARD: \$60,721.18
<p>*We remind all intervenors that Commission staff may audit the records and books of the intervenors to the extent necessary to verify the basis for the award (§1804(d)). Intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Intervenor’s records should identify specific issues for which it seeks compensation, the actual time spent by each employee or consultant, the applicable hourly rates, fees paid to consultants and any other costs for which compensation was claimed. The records pertaining to an award of compensation shall be retained for at least three years from the date of the final decision making the award.</p> <p>**Travel and Reasonable Claim preparation time are typically compensated at ½ of preparer’s normal hourly rate</p>				
ATTORNEY INFORMATION				
Attorney	Date Admitted to CA BAR ⁶	Member Number	Actions Affecting Eligibility (Yes/No?) If “Yes”, attach explanation	
Christine Mailloux	12/93	167918	No	
Ashley Salas	12/15	308374	No	

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
Attachment 1	Certificate of Service
Attachment 2	Timesheets for TURN's Attorneys and Advocates
Attachment 3	TURN Direct Expenses Associated with D.19-01-029
Attachment 4	TURN Hours Allocated by Issue

⁶ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch>.

PART IV: OPPOSITIONS AND COMMENTS

Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (*see* § 1804(c))

A. Opposition: Did any party oppose the Claim?	No
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes

FINDINGS OF FACT

1. The Utility Reform Network has made a substantial contribution to Decision 19-01-029.
2. The requested hourly rates for The Utility Reform Network's representatives are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$60,721.18.

CONCLUSION OF LAW

1. The Claim satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. The Utility Reform Network shall be awarded \$60,721.18.
2. Within 30 days of the effective date of this decision, the California Public Utilities Commission Intervenor Compensation Fund shall pay The Utility Reform Network the total award. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning June 23, 2019, the 75th day after the filing of The Utility Reform Network's request, and continuing until full payment is made.

3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at Los Angeles, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision:	D1901029		
Proceeding:	R1706023		
Author:	ALJs Kline and DeAngelis		
Payer:	CPUC Intervenor Compensation Fund		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
The Utility Reform Network	April 9, 2019	\$60,721.18	\$60,721.18	N/A	None

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Christine	Mailloux	Attorney	\$475.00	2017	\$475.00
Christine	Mailloux	Attorney	\$485.00	2018	\$485.00
Christine	Mailloux	Attorney	\$495.00	2019	\$495.00
Ashley	Salas	Attorney	\$210.00	2017	\$210.00
Ashley	Salas	Attorney	\$225.00	2018	\$225.00
Regina	Costa	Advocate	\$315.00	2018	\$315.00
Regina	Costa	Advocate	\$315.00	2019	\$315.00

(END OF APPENDIX)